

Message Text

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ACTION L-03

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FM AMEMBASSY SOFIA

TO SECSTATE WASHDC 646

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E.O. 11652: NA

TAGS: AFSP, BU

SUBJ: BULGARIAN LABOR CONTRACT

REF: (A) STATE 289657; (B) SOFIA 2497

1. SUMMARY: COORDINATING WITH OTHER MISSIONS, EMBASSY IS ATTEMPTING TO OBTAIN MODIFICATIONS TO BULGARIAN LABOR CONTRACT. AT OUR URGING, DEAN OF DIPLOMATIC CORPS HAS OBTAINED GOB AGREEMENT TO POSTPONE DEADLINE TO JANUARY 15. THIS TELEGRAM LISTS AMENDMENTS WE HAVE PROPOSED TO GOB. MEANWHILE, TWO EMBASSIES HAVE BROKEN RANKS AND SIGNED NEW CONTRACT AND OTHERS ARE PREPARING TO DO SO INASMUCH AS GOB HAS ABILITY TO ORDER MISSION LOCAL EMPLOYEES TO CEASE WORK IF CONTRACT NOT SIGNED. END SUMMARY.

2. DEPARTMENT'S GUIDANCE IN REFTEL A MOST HELPFUL. EMBASSY, CLOSELY COORDINATING WITH OTHER MISSIONS, IS SEEKING TO OBTAIN MODIFICATIONS IN BULGARIAN LABOR CONTRACT. AT OUR URGING, DEAN OF DIPLOMATIC CORPS (ALGERIAN AMBASSADOR) POINTED OUT THAT SOME PROVISIONS OF LABOR LAW ARE NOT EASILY ADAPTED TO REQUIREMENTS OF DIPLOMATIC MISSIONS AND REQUESTED POSTPONEMENT OF DECEMBER 15 DEADLINE TO ALLOW TIME FOR FURTHER NEGOTIATION. THIS WAS GRANTED, BUT NEW DEADLINE WAS SET AT JANUARY 15. CU THE MEANTIME, TWO EMBASSIES (EGYPTIAN AND IRAQI) HAVE SIGNED LABOR CONTRACT AND LIMITED OFFICIAL USE

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OTHERS (FRG AND FRENCH) HAVE MADE COUNTER-PROPOSALS

WHICH GOB DECLINED TO ACCEPT.

3. GOB HAS LISTENED SYMPATHETICALLY TO OUR OWN RESERVATIONS AND HAS SUGGESTED WE SUBMIT PROPOSED AMENDMENTS. THESE ARE CONTAINED IN NEXT PARAGRAPH. ALTHOUGH WE HOPE TO OBTAIN SOME MODIFICATIONS, ESPECIALLY WHEN THESE INVOLVE MATTERS OF INTERPRETATION, WE ARE NOT SANGUINE THAT OUR NEW TEXTS WILL BE ACCEPTED, ESPECIALLY IN LIGHT OF RECEPTION OF FRENCH AND WEST GERMAN COUNTER-PROPOSALS. THE CONTRACT IS BEING BASED ON BULGARIAN LEGISLATION. GOB HAS CLAIMED THAT AMENDING IT WOULD REQUIRE FIRST AMENDING THESE LAWS. ON OTHER HAND, GOB HAS SUGGESTED WE NEED NOT BE CONCERNED WITH SOME OF THE MORE ONEROUS ASPECTS OF THE CONTRACT AND IN FACT COULD WORK AROUND THEM. THEY HAVE GONE SO FAR AS TO SAY THAT ONCE WE SIGN THE CONTRACT, WE CAN MAKE PRIVATE UNDERSTANDINGS WITH OUR EMPLOYEES AND A BLIND EYE WILL BE TURNED. WE (AND OTHER MISSIONS TO WHOM SIMILAR STATEMENTS HAVE BEEN MADE) TAKE ASSURANCES ABOUT "BLIND EYE" RATHER SKEPTICALLY. OBVIOUSLY WE WILL TRY TO OBTAIN AT LEAST INTERPRETATIONS IN WRITING SINCE ORAL ASSURANCES ARE OF LITTLE VALUE. AT SAME TIME, WE ARE WELL AWARE GOB CAN COMPEL ACCEPTANCE OF CONTRACT BY ORDERING MISSION EMPLOYEES TO CEASE WORK. GOB HAS ALREADY DECLINED TO SUPPLY CANDIDATES FOR VACANT POSITIONS UNTIL NEW CONTRACT IS SIGNED.

4. FOLLOWING ARE THE AMENDMENTS PROPOSED TO THE GOB. DEPT WILL NOTE THAT WHILE WE HAVE TRIED TO TIDY UP A NUMBER OF UNDESIRABLE FEATURES, THE MAIN REVISIONS CONCERN ARTICLE 6 (WHICH WOULD SET A CEILING ON OVER-TIME), ARTICLE 9 (WHICH WOULD CALL FOR DOUBLE-TIME RATHER THAN TIME-AND-A-HALF FOR HOLIDAY DUTY) AND MOST IMPORTANTLY ARTICLE 18 WHICH IF UNAMENDED WOULD ALLOW THE BUREAU OF DIPLOMATIC SERVICES TO TERMINATE THE EMPLOYMENT OF A BULGARIAN EMPLOYEE OF THE EMBASSY WITHOUT SO MUCH AS A MINUTE'S NOTICE. WE HAVE ALSO ATTEMPTED TO RECTIFY ARTICLE 21 TO REMOVE THE INTER- PRETATION THAT THE EMBASSY MIGHT NOT BE DIRECTLY REPRESENTED IN THE SETTLEMENT OF A DISPUTE INVOLVING LIMITED OFFICIAL USE

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ONE OF ITS EMPLOYEES.

A. TO ARTICLE 2, THAT THE FOLLOWING CLAUSE BE ADDED: "IN ACCEPTING EMPLOYMENT AT THE EMBASSY, THE EMPLOYEE UNDERSTANDS AND ACCEPTS THE NECESSITY FOR OCCASIONAL WORK AFTER NORMAL WORKING HOURS, OR ON WEEKENDS, OR ON HOLIDAYS. SUCH OVERTIME WILL BE COMPENSATED EITHER BY REMUNERATION AT A PREMIUM

RATE, OR THROUGH COMPENSATORY TIME OFF."

B. WITH REGARD TO ARTICLE 5, WE PROPOSE THAT SECOND SENTENCE BE RE-WRITTEN AS FOLLOWS: "PRIOR TO A BULGARIAN LEGAL HOLIDAY, THE WORKING DAY WILL NORMALLY BE ONLY SIX HOURS IN DURATION; IF LONGER SERVICE IS REQUIRED ON THAT DAY, PAYMENT WILL BE MADE AT THE PREMIUM RATE."

C. ADDITIONALLY, WE PROPOSE THAT FINAL SENTENCE OF THIS ARTICLE BE RE-WRITTEN TO READ: "NIGHT WORKING TIME SHOULD NOT EXCEED EIGHT HOURS."

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D. THAT ARTICLE 6 BE RE-WRITTEN AS FOLLOWS: "IN NORMAL CIRCUMSTANCES, WORK IN EXCESS OF THE DECREED WORKING DAY IS NOT ALLOWED. HOWEVER, THE SPECIAL REQUIREMENTS OF DIPLOMATIC MISSIONS MAY SOMETIMES REQUIRE OVERTIME WORK TO BE PERFORMED. SUCH OVERTIME WORK WILL BE COMPENSATED EITHER THROUGH REMUNERATION AT THE PREMIUM RATE OF 1.5 HOURS' PAY FOR EACH HOUR WORKED, OR THROUGH COMPENSATORY TIME OFF."

E. REGARDING ARTICLE 9, WE PROPOSE THAT LAST SENTENCE BE RE-WRITTEN: "THROUGH EXCEPTION, AND IN CASE OF PRESSING NECESSITY, WORK PERFORMED ON SUCH DAYS IS PAID AT THE PREMIUM RATE SPECIFIED IN ARTICLE 8."

F. ARTICLE 18 BE RE-WRITTEN: "THE LABOR CONTRACT CAN BE TERMINATED AT THE REQUEST OF ONE OF THE PARTIES, OR AT THE REQUEST OF THE BUREAU FOR

SERVICES TO THE DIPLOMATIC CORPS, BY PROVIDING THIRTY DAYS' NOTICE TO THE TWO OTHER PARTIES, AND BY OBSERVING THE EXISTING LEGISLATION."

G. EMBASSY ALSO PROPOSES ONE SENTENCE BE ADDED TO ARTICLE 19: "SEVERANCE PAY WILL NOT BE PAID TO AN EMPLOYEE WHOSE SERVICES ARE TERMINATED FOR CAUSE."

H. EMBASSY RE-WRITING ARTICLE 21: "DISPUTES OVER THIS LABOR CONTRACT SHALL BE SETTLED THROUGH COORDINATION BETWEEN THE BUREAU FOR SERVICES TO THE DIPLOMATIC CORPS, THE TRADE UNION COMMITTEE OF THE LIMITED OFFICIAL USE

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ESTABLISHMENT, AND THE DIPLOMATIC MISSION."

I. FINALLY, THE EMBASSY PROPOSES ADDITION OF A NEW ARTICLE, TO READ: "THE TERMS AND CONDITIONS OF THIS CONTRACT SHALL BE INTERPRETED AND APPLIED BY THE PARTIES IN KEEPING WITH THE SPECIAL REQUIRMENTS OF DIPLOMATIC ESTABLISHMENTS."
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